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09/734,792	12/12/2000	Corinne Saso	C6588(C)	5173

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45 RIVER ROAD  
EDGEWATER, NJ 07020

EXAMINER
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BUI, LUAN KIM

ART UNIT	PAPER NUMBER
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3728

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GROUP 3700

**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Paper No. 19

Application Number: 09/734,792  
Filing Date: December 12, 2000  
Appellant(s): SASO ET AL.

\_\_\_\_\_  
Kevin J. Stein  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 2/12/2004.

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**(1) *Real Party in Interest***

A statement identifying the real party in interest is contained in the brief.

**(2) *Related Appeals and Interferences***

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

**(3) *Status of Claims***

The statement of the status of the claims contained in the brief is correct.

**(4) *Status of Amendments After Final***

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) *Summary of Invention***

The appellant's statement of the issues in the brief is correct.

**(6) *Issues***

The appellant's statement of the issues in the brief is correct.

**(7) *Grouping of Claims***

Appellant's brief includes a statement that claims 1, 3, 4, 6, 7, 10, 12, 13, 15-17, 22, 24, 25, 27 and 28 stand or fall together.

Appellant's brief includes a statement that claims 2, 5, 8, 9, 11 and 19 stand or fall together.

Appellant's brief includes a statement that claims 20, 21 and 23 stand or fall together.

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**(8) Claims Appealed**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(9) Prior Art of Record**

4,586,312	LIMOUSIN	5/1986
4,720,410	LUNDQUIST et al.	01/1988
5,067,612	TSUCHIYA et al.	11/1991

**(10) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3, 4, 6, 7, 10, 12, 13, 15-17, 22, 24, 25, 27 and 28 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Limousin (4,586,312) in view of Lundquist et al. (4,720,410; hereinafter Lundquist'410). Limousin discloses a combination of two or more packages (10A-L) to form a unit and the unit is shrink wrapped in two or more films on opposite film sides of the unit. Limousin further discloses at least one line of perforation (21, 22) extending in at least one of the films at least along one of the film sides and a pair of gripping openings (Figure 1). Limousin also discloses the other claimed limitations except for at least one

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of the films being opaque and at least one of the films being clear. Lundquist'410 teaches a package (10) for holding articles (12) comprising a top sheet (22) is transparent sealed (26) to a bottom sheet (24) is opaque (column 4, lines 3-11). The bottom sheet is thicker than the top sheet (Figures 1-2). It would have been obvious to one having ordinary skill in the art in view of Lundquist'410 to modify the films of Limousin so the films comprises at least one of the films is clear to allow visual access to the packages and at least one of the films is opaque to prevent visual access to the packages.

3. Claims 2, 5, 8, 9, 11 and 19 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 1 and 2 above, and further in view of Tsuchiya et al. (5,067,612; hereinafter Tsuchiya'612). Limousin fails to show the openings being on opposite sides of the perforations in the film side. Tsuchiya'612 teaches in the embodiment of Figure 13 a package (50) at least a pair of perforations (14) with a notch opening (15) and a pair of openings (43) on opposite sides of the perforations. It would have been obvious to one having ordinary skill in the art in view of Tsuchiya'612 to modify the openings of Limousin so the openings are disposed on the opposite sides of the perforations to facilitate carrying.

4. Claims 20, 21 and 23 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Limousin (4,586,312) in view of Tsuchiya et al. (5,067,612; hereinafter Tsuchiya'612). Limousin discloses a combination of two or more packages (10A-L) to form a unit and the unit is shrink wrapped in two or more films on opposite film sides of the unit. Limousin further discloses at least one line of perforation (21, 22) extending in at least one of the films at least

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along one of the film sides and a pair of gripping openings (Figure 1). Limousin also discloses the other claimed limitations except the openings being on opposite sides of the perforations in the film side. Tsuchiya'612 teaches in the embodiment of Figure 13 a package (50) at least a pair of perforations (14) with a notch opening (15) and a pair of openings (43) on opposite sides of the perforations. It would have been obvious to one having ordinary skill in the art in view of Tsuchiya'612 to modify the openings of Limousin so the openings are disposed on the opposite sides of the perforations to facilitate carrying.

**(11) Response to Argument**

Issue I.

In response to Appellant's argument regarding the bar codes or bar code reading machines on page 13 of the brief is noted. This is not understood because there are no such bar codes or bar code reading machines as recited in the claims (including claim 21).

In response to Appellant's arguments on pages 13-14 of the brief that Lundquist is not relevant art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Limousin a heat shrinkable package including two or more films for holding a plurality of articles 10A-10L together to form a unit and Limousin further discloses various types of conventional heat-shrinkable material can be utilized to form the package (column 6, lines 62-

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68). Lundquist'410 also shows a heat shrinkable package including two or more films for holding a plurality of articles 12 together to form a unit. Both Limousin and Lundquist'410 disclose an outer package of using the heat-shrinkable material for holding the plurality of articles together to form a unit. Whether Lundquist'410 shows the primary type packaging or the secondary type packaging but the outer package comprises the heat-shrinkable material. There does not appear to be anything unobvious about using the teaching of providing the package comprises at least one films is opaque and at least one films if clear as taught by Lundquist in the package of Limousin to allow visual access to the contents within the package from the clear sheet and to prevent visual access to the contents within the package from the opaque sheet.

Issues II and III.

Appellant argues that Limousin teaches away from the present invention as claimed is noted. This is not persuasive because Limousin does not disclose the gripping openings have to be in the location as shown in Figure 1. In fact, if the gripping openings are modified to the ends of the perforations as taught by Tsuchiya'612 to provide more convenience for the user to carry the package and remove the perforations from the package. Furthermore, the teachings in Tsuchiya'612 are not at odds with the teaching in Limousin because Tsuchiya'612 teaches the gripping openings can be located at the opposing ends of the perforations (Figure 13) or away from the perforations (Figure 11) is similar to the teaching of Limousin. From the teaching of Tsuchiya'612 discloses in the embodiment of Figures 11 and 13, it would have been obvious to one having ordinary skill in the art at the time the invention was made in view of Tsuchiya'612 to modify the gripping openings of Limousin so the gripping openings located at opposing ends of

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the perforations to facilitate carrying the package and removing the perforations from the package.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Luan K Bui  
Primary Examiner  
Art Unit 3728



lkb  
March 8, 2004

Conferees



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